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# **Exceptions**

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## **BEFORE THE ARIZONA CORPORATION COMMISSION**

### COMMISSIONERS

Arizona Corporation Commission

**DOCKETED**

**APR 19 2019**

DOCKETED BY

DOCKET NO. E-01345A-18-0002

**BOB BURNS, Chairman**  
**ANDY TOBIN**  
**BOYD DUNN**  
**SANDRA D. KENNEDY**  
**JUSTIN OLSON**

IN THE MATTER OF THE FORMAL  
 COMPLAINT AGAINST ARIZONA  
 PUBLIC SERVICE COMPANY FILED  
 BY STACEY CHAMPION AND OTHER  
 ARIZONA PUBLIC SERVICE  
 COMPANY CUSTOMERS.

**EXCEPTIONS OF COMPLAINANT  
 STACEY CHAMPION**

Complainant Stacey Champion, by and through counsel undersigned, hereby submits her exceptions to the Recommended Opinion and Order ("ROO"). Complainant's exceptions focus on the conclusion in the ROO that Complainant has not met her burden of proof and the appropriate remedy.

**I. COMPLAINANT HAS MET HER BURDEN TO SHOW THAT THE RATES APPROVED IN DECISION 76295 ARE NOT JUST AND REASONABLE.**

Ms. Champion's Complaint alleged that the rates and charges approved by the Commission in Decision 76295 are not just and reasonable because the **actual** average bill impact experienced by residential customers under the New Rates is significantly greater than the 4.54% projection that was the basis for the Commission's approval of the Settlement Agreement. To meet this burden, Complainant had to "show that it is more

1 likely than not that APS's current rates and charges result in APS earning more than its  
2 authorized rate of return or that APS's current rates and charges are otherwise unfair."<sup>1</sup>

3 Complainant has met that burden.

4 Base rates increased by 17.89%, not 15.9% as approved by Decision 76295.

5 Complainant's rebilling analysis of 12 months of 2015 test year billing data for a  
6 statistically valid sample of 16,237 residential APS customers (the equivalent of 194,844  
7 bills) under the New rates that those customers were actually on as of May 1, 2018,  
8 showed an average base rate increase of 17.89%.<sup>2</sup> The rates and charges used for this  
9 analysis were those approved by Decision 76295, and were provided to Complainant by  
10 APS, along with all the billing data.<sup>3</sup> Staff has acknowledged that Complainant's analysis  
11 accurately calculated the bills under the New rates in effect on August 19, 2017, as well  
12 as the adjustors in effect on that date, based on the 2015 test year usage of the statistically  
13 valid sample of APS customers.<sup>4</sup>

14 The 15.9% base rate increase approved in the Decision assumed a forecasted  
15 distribution of residential customers on the New rate plans.<sup>5</sup> Complainant has shown that  
16 APS overestimated the number of customers who would select a New rate plan that was  
17 "dissimilar" to their old rate and that the "similar" or "most-like" New rates are more  
18 expensive for customers.<sup>6</sup> APS has admitted that only about half of APS's residential  
19 customers are on their most economical rate.<sup>7</sup>

20 Subsequent to the hearing, APS provided Complainant with the 2015 test year  
21 billing data for 878,103 of its residential customers (the equivalent of roughly 10.5  
22 million bills) from the data files that APS provided with its Residential Bill Impacts May-

23 <sup>1</sup> ROO at 68:18-22 (emphasis added).

24 <sup>2</sup> Champion's Post-Hearing Brief at 6-7.

25 <sup>3</sup> Champion's Post-Hearing Brief at 6-7.

26 <sup>4</sup> Champion's Post-Hearing Brief at 10.

<sup>5</sup> Champion's Post-Hearing Brief at 8.

<sup>6</sup> Champion's Post-Hearin Brief at 8.

<sup>7</sup> Hobbick Rebuttal, p. 2; ROO at 74.

1 August 2018.<sup>8</sup> Complainant rebilled the 2015 usage of those 878,103 residential  
2 customers under the **actual** New rates that those customers were on as of May 1, 2018,  
3 and found that the annual average base rate increase across all 878,103 customers was  
4 17.9%, which is virtually identical to the annual average base rate increase of 17.89%  
5 Complainant had calculated from the sample of APS residential customers.<sup>9</sup> Additionally,  
6 Complainant's analysis of the approximately 10.5 million 2015 residential bills revealed  
7 huge variations in the average base bill impact between winter and summer months  
8 ranging from a low of 10.8% for July to a high of 27.9% for December.<sup>10</sup>

9 The New rates generate more revenue than authorized by Decision 76295.

10 According to APS, to meet her burden of proof Complainant had "to demonstrate  
11 that the rates approved by Decision No. 76295 produce more revenue when applied to the  
12 adjusted 2015 Test Year billing determinants (kWh, kW, and customers) than authorized  
13 by that Decision."<sup>11</sup>

14 Complainant's evidence has shown just that. The actual average base rate increase  
15 of 17.89% for residential customers, instead of an increase of 15.9% as called for by the  
16 Decision, translates to approximately \$30 million in additional revenue for APS.<sup>12</sup> The  
17 difference between the forecasted distribution of residential customers on the New rates  
18 and the **actual** distribution of residential customers on the New rates is the cause of the  
19 higher-than-authorized increase to the average base rate of residential customers.<sup>13</sup>

20 Residential customers did not see the 11.36% reduction to adjustors on their bills.

21 The 11.36% reduction to the adjustors failed to materialize on customers' bills.  
22 Staff and APS attempt to explain away this fact by pointing to adjustor rate changes that  
23

24 <sup>8</sup> Champion's Response to APS Residential Bill Impacts May-August 2018, p.18.

25 <sup>9</sup> Champion's Reply Brief at 12.

26 <sup>10</sup> Champion's Reply Brief at 12.

<sup>11</sup> APS's Procedural and Process Recommendations (March 8, 2018) at 3:5-8.

<sup>12</sup> Champion's Reply Brief at 13.

<sup>13</sup> Champion's Reply Brief at 4-5.

1 happened at exactly the same time but outside the rate case (the DSMAC and REAC  
2 adjustors), the timing of reductions to the LFCR (which collects in arrears), and changes  
3 to cost allocation in the TCA adjustor after the 2015 Test Year but before the Decision.  
4 None of the changes to the adjustors on August 19, 2017, whether those changes occurred  
5 in the rate case or outside the rate case, were communicated to customers.<sup>14</sup> Customers  
6 only experienced the net impact of various changes to the adjustors on their bills. What  
7 residential customers saw on their bills was only a 5.33% reduction to the adjustors.<sup>15</sup>

8 Residential customers saw an average bill impact of 12.56%, not 4.54%.

9 Complainant's analysis showed that the **actual** average bill impact for residential  
10 customers under New, **actual** rates is 12.56%.<sup>16</sup> This **actual** average bill impact resulted  
11 from a 17.89% increase to the base and a 5.33% reduction to the adjustors.<sup>17</sup> This is  
12 significantly more than the 4.54% (or \$6 monthly increase) that was broadly announced  
13 by APS and the Commission to media and the general public. The rate impact actually  
14 felt by residential customers can only be described as rate shock. This was fundamentally  
15 unfair to ratepayers.

## 16 **II. THE COMMISSION COULD NOT HAVE INTENDED THIS RESULT.**

17 The ROO finds that "there is no evidence that APS has violated the law or a  
18 Commission Order or rule in implementing the Settlement Agreement."<sup>18</sup> Yet in  
19 describing the rate increase to its residential customers, APS failed to inform them that  
20 winter rates will increase significantly more than the summer rates or to provide any  
21 explanation that the 4.54% average increase represents a range of bill impacts from a  
22  
23  
24

25 <sup>14</sup> Champion's Reply Brief at 9.

<sup>15</sup> Champion's Post-Hearing Brief at 10.

<sup>16</sup> Champion's Post-Hearing Brief at 10.

26 <sup>17</sup> Champion's Post-Hearing Brief at 10; Padgaonkar Direct, p.18-19.

<sup>18</sup> ROO at 67. Complainant did not allege that APS violated the Decision, rule, or statute.

1 95% increase to an 81% decrease.<sup>19</sup> Nor did APS inform its customers that the 4.54% did  
2 not include revenue collected through adjustors that change outside the rate case. This  
3 kind of obfuscation and misdirection could not have been the intent of the Commission in  
4 approving the Settlement, yet is allowed under the Decision. That is precisely the  
5 problem and the reason why APS's rates and charges approved by Decision 76295 are  
6 unfair to residential customers. Customers opened their electric bills expecting to see an  
7 increase in the neighborhood of 4.54%, but instead saw an increase of significantly more.  
8 The rate shock experienced by residential ratepayers came from the perfect storm created  
9 by significant changes to rate design, a base rate increase that was greater than advertised,  
10 and unannounced adjustor changes.

11 The ROO also finds that "[t]here is no evidence that the Settling Parties or the  
12 Commission were misled or did not understand or intend the projected rate impacts when  
13 considering and approving the Settlement Agreement."<sup>20</sup> It could not have been the intent  
14 of the Commission to cause rate shock to residential customers when it approved the  
15 Settlement Agreement. The question is: if Commissioners knew then what they know  
16 now, would they still have approved the Settlement Agreement? If the answer is no, then  
17 the rates are not just and reasonable.

### 18 **III. REMEDIES.**

19 If the Commission decides that the **actual** result of the rate increase is not the  
20 intended result, either because the **actual** average bill impact under the New rates on  
21 residential customers is greater than the projected 4.54% or because the rate impact  
22 disparity caused by the new rate design is not what the Commission intended, then the  
23 New rates cannot be said to be just and reasonable or in the public interest. Instead, they  
24 are unreasonable and the Commission should rescind Decision 76295 pursuant to A.R.S.

25 <sup>19</sup> Hobbick Rebuttal, Attachment JEH-1DR. This renders the description of the average bill impact  
26 virtually meaningless to the typical residential customer. The ROO agreed with Complainant on this and  
acknowledged that the 4.54% figure "may have been misleading." ROO at 72.

<sup>20</sup> ROO at 71.

1 § 40-252 and hold a full-scale rate hearing on APS's original rate application, through  
2 which the Commission could set new rates that are just, fair, and reasonable. See  
3 **Champion Exception No. 1.**

4 At the very least, the Commission should re-open Docket Nos. E-01345A-16-0036  
5 and E-01345A-16-0123, pursuant to A.R.S. § 40-252, to modify the Decision to allow all  
6 residential customers to return to Transition rates and remain there indefinitely. The one  
7 thing that Complainant, Staff, and APS generally agreed upon was that the Transitional  
8 rates produced an average base rate increase of approximately 15.9%, prior to any  
9 recognition of the adjustor transfer.<sup>21</sup>

10 RESPECTFULLY SUBMITTED this 19th day of April, 2019.

11 By: /s/ Adam L. Stafford

12 Adam L. Stafford

13 Attorney for Complainant Stacey Champion

14 ORIGINAL and thirteen (13) copies  
15 of the foregoing filed this 19th day of  
16 April, 2019, with:

17 Docket Control  
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19 1200 W. Washington Street  
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21 COPY of the foregoing emailed  
22 this 19th day of December, 2019 to:

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<sup>21</sup> APS's Initial Closing Brief at 12.



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26

**CHAMPION EXCEPTION NO. 1**

TIME/DATE PREPARED: \_\_\_\_\_

COMPANY: Arizona Public Service Company      AGENDA ITEM NO.: \_\_\_\_\_

DOCKET Nos.: E-01345A-18-0002      OPEN MEETING: \_\_\_\_\_

Purpose: To find that Complainant has met her burden to show that the New rates are not just and reasonable and to commence an unrestricted A.R.S. § 40-252 proceeding.

**Page 10, Line 7 after “rate increases and charges”, DELETE: “and misdirection”**

**Page 10, Line 17 after “an average of”, DELETE: “1,935”**

REPLACE with: “1,035”

**Page 12, Line 6 after “APS’s data files”, DELETE: “, and calculated a base rate increase of 17.9 percent (rather than 15.9 percent)”**

**Page 71, Line 14-Page 72, Line 1, DELETE:**

“The results of the analyses performed for this matter do not show that the 4.54 percent estimated average residential impact was wrong. We find, based on the totality of evidence, that the 4.54 percent figure was calculated correctly under industry standards and the Commission’s practice and historic procedures. The Complainants criticize APS’s failure to include in the estimated average residential impact the impacts associated with adjustors that occurred outside the rate case, or that did not occur for several months. But the Complainants have not shown that the calculation of the bill impacts at the time of the Decision was incorrect. Evidence was presented in the 2016 Rate Case showing the expected impacts of the revenue increase on the different rate plans. That evidence supported APS’s 4.54 percent estimated impact. We no not find that APS acted improperly in presenting the 4.54 percent figure. There is no evidence that the Settling Parties or the Commission were misled or did not understand or intend the projected rate impacts when considering and approving the Settlement Agreement.

1 Even though we find that the 4.54 percent base rate increase was calculated  
2 according to industry standards and Commission Practice, we”

3 REPLACE with:

4 Complainants have shown that the actual average bill impact on residential customers  
5 under the New Rates is greater than the projected 4.54 percent figure. Complainants have  
6 shown by a preponderance of the evidence that the actual base rate increase under the  
7 New Rates was 17.89 percent, not 15.9 percent as projected by APS and approved by the  
8 Commission, due to APS’s incorrect forecast of the distribution of residential customers  
9 on the New Rates plans. We”

10 **Page 72, Line 3 after “rate cases for a living) and”, DELETE: “may have been”**

11 REPLACE with “was”

12 **Page 72, Lines 3-7, DELETE:**

13 “The 4.54 percent figure represents the amount of increase in the base rate portion of the  
14 class average residential customer’s bill based on Test Year data and exclusive of the  
15 adjustor sweep. It does not reflect the specific bill impact that would be experienced by  
16 any individual customer in the Test Year or an average customer or individual customer  
17 in future years.”

18 **Page 72, Line 15 after “APS”, DELETE: “may be”**

19 REPLACE with: “is”

20 **Page 73, Line 25 after “are unreasonable because they”, DELETE:**

21 “increased fixed charges, are different, or”

22 **Page 74, Line 5 after “authorized rate of return”, DELETE: “or that APS’s rates are**  
23 **unfair”**

24 **Page 74, Line 18 after “as required in a rate case.”, INSERT:**

25 “This was unfair to ratepayers.”

26 **Page 74, Line 21, DELETE: “probably”**

1 **Page 74, Line 22 – Page 75, Line 4, DELETE:**

2 “The evidence in this proceeding does not prove that the residential rates approved in  
3 Decision No. 76295 are unfair to residential ratepayers. Mr. Woodward has focused on  
4 the affordability of the rates and limited opportunities for the smallest users to mitigate  
5 the effects of the rate increase approved in Decision No. 76295. Mr. Woodward’s  
6 assumptions about the composition of the ratepayers on the R-XS rate, their ability to  
7 adjust behavior to respond to increased rates, and their ability to pay increased rates may  
8 be accurate, but we do not have the data to make such determinations. Without knowing  
9 more about the impacts of the New Rates on this group of consumers, or indeed the  
10 residential class as a whole, we cannot overturn the findings of Decision No. 76295 and  
11 find the rates to be unfair.”

12 **Page 75, Line 5, DELETE: “Nevertheless, we”**

13 **REPLACE with: “We”**

14 **Page 75, Line 11 after “of adjustors.”, INSERT:**

15 “This was fundamentally unfair to residential ratepayers.”

16 **Page 75, Line 11, DELETE: “Even if complainants have not met”**

17 **REPLACE with: “Complainants have met”**

18 **Page 75, Line 11 after “proof for us to”, DELETE: “or to”**

19 **Page 75, Line 12 after “file a new rate case”, DELETE: “, the evidence”**

20 **REPLACE with: “. The evidence”**

21 **Page 75, Line 13 after “in this case has”, DELETE: “not alleviated”**

22 **REPLACE with: “confirmed”**

23 **Page 75, Line 19 after “definitively whether”, DELETE: “APS’s rates and charges  
24 remain just and reasonable”**

25 **REPLACE with: “APS complied with the outreach and education requirements of  
26 Decision No. 76295 and if APS is exceeding its authorized rate of return”**

1 **Page 76, Line 23-Page 77, Line 2, DELETE:**

2 "We do find as a result of the evidence in this case that it is reasonable to allow APS  
3 ratepayers one additional opportunity to switch rate plans. Because this would be a  
4 modification to the Settlement Agreement approved in Decision No. 76295, we direct  
5 Staff to commence a proceeding pursuant to A.R.S. § 40-252 for the limited purpose of  
6 allowing such modification. Although we will limit the scope of this A.R.S. § 40-252  
7 proceeding to this one provision (because we do not want to wait to allow ratepayers to  
8 find their most economical rate), we will not preclude potential future modifications to  
9 the Settlement Agreement arising from the findings of the rate review and audit  
10 performed in Docket No. E-01345A-19-0003."

11 **Page 84, Line 13, DELETE: "inferred"**

12 **REPLACE with: "informed"**

13 **Page 88, Lines 14-16, DELETE:**

14 "109. Based on the totality of the record in this proceeding, Ms. Champion and the  
15 Intervenors have not proven by a preponderance of the evidence that the projected 4.54  
16 percent average residential bill impact under the rates approved in Decision No. 76295  
17 was calculated incorrectly."

18 **REPLACE with:**

19 "109. Based on the totality of the record in this proceeding, Ms. Champion and the  
20 Intervenors have proven by a preponderance of the evidence that the actual average bill  
21 impact on residential customers under the New Rates is greater than the projected 4.54  
22 percent figure.

23 **Page 88, Line 21 after "over-earning, DELETE: "or that the New Rates are unfair."**

24 **Page 88, Line 23, INSERT new Finding of Fact:**

25

26

1 “110. Based on the totality of the record in this proceeding, Ms. Champion and the  
2 Intervenors have proven by a preponderance of the evidence that the New Rates are  
3 unfair.”

4 **Page 88, Line 26, DELETE: “not alleviated”**

5 **REPLACE with: “confirmed”**

6 **Page 89, Lines 18-22, DELETE:**

7 “, for the limited purpose of allowing APS’s residential ratepayers an additional  
8 opportunity to switch rate plans. This directive does not preclude future modifications to  
9 the rate plans or outreach and educational plan requirements adopted in Decision No.  
10 76295, which will be considered and may be directed as a result of the inquiry in Docket  
11 No. E-01345A-19-0003”

12 **Page 90, Line 8 after “rules of the Commission”, DELETE: “, or that the rates and**  
13 **charges approved in Decision No. 76295 are not just and reasonable”**

14 **Page 90, Lines 10-11, DELETE: “Pursuant to A.R.S. §§ 40-252, 40-253, and 40-254, the**  
15 **findings of Decision No. 76295 are conclusive.”**

16 **REPLACE with:**

17 “4. Ms. Champion and the Intervenors have demonstrated by a preponderance of the  
18 evidence that the rates and charges approved in Decision No. 76295 are not just and  
19 reasonable.”

20 **Page 90, Line 16 after “IT IS THEREFORE ORDERED”, DELETE:**

21 “that the Champion Complaint is dismissed with prejudice, and any further issues  
22 concerning the reasonableness of Arizona Public Service Company’s rates and charges  
23 established in Decision No. 76295, and the adequacy of its customer education and  
24 outreach program shall be considered and addressed in Docket No. E-01345A-19-0003.”

25 **Page 90, Line 20, DELETE: “IT IS FURTHER ORDERED”**

26



1 Page 90, Line 21 after "pursuant to A.R.S. § 40-252", DELETE: " , for the limited  
2 purpose of allowing Arizona Public Service Company's residential ratepayers an  
3 additional opportunity to switch rate plans"

4  
5 **Make all conforming changes.**  
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